



C607/045 Incoming
cc: Pete #3805
Angela OK

May 23, 2011

Mr. James D. Smith
Permit Supervisor
Utah Division of Oil, Gas, and Mining
Coal Regulatory Program
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84114

**RE: Final Submittal for Midterm Review
Covol Engineered Fuels, LC
Permit C/007/0045, Task ID #3805**

Dear Mr. Smith:

Covol Engineered Fuels, LC (Covol) received a letter from the Division of Oil, Gas, and Mining, dated May 2, 2011, requesting that the additional bond and four clean copies of the responses to the deficiencies from the midterm review on Permit C/007/0045 be submitted by June 2, 2011. As such, enclosed are the following:

- Forms DOGM-C1 and DOGM-C2
- Exhibit D – Stipulation to Review Reclamation Agreement
- Affidavit of Qualification of Permittee
- Cashiers' check for \$41,000 for the increase in bonding
- Four clean copies of the revised sections of Permit C/007/0045

If you have any questions regarding the enclosed documents or need additional information, please call me at (801) 984-3770.

Sincerely,

Gina Rau
Director, Regulatory Compliance

Enclosures (9)

10653 S. River Front Parkway
Suite 300
South Jordan, UT 84095
P: 801.984.9400
F: 801.984.9410

File in:

☐ Confidential

☐ Shelf

☒ Expandable

Date Folder 052411 C/0070045



APPLICATION FOR COAL PERMIT PROCESSING

Permit Change ☒ New Permit ☐ Renewal ☐ Exploration ☐ Bond Release ☐ Transfer ☐

Permittee: COVOL Engineered Fuels, LC

Mine: Wellington Dry Coal Cleaning Facility

Permit Number: C/007/0045

Title: Final Submittal to Mid-Term Review Comments - Task ID #3805

Description, Include reason for application and timing required to implement:

Final submittal to the mid-term review, including increased bond amount & 4 clean copies - Task ID #3805.

Instructions: If you answer yes to any of the first eight (gray) questions, this application may require Public Notice publication.

- | | |
|---|---|
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 1. Change in the size of the Permit Area? Acres: _____ Disturbed Area: _____ <input type="checkbox"/> increase <input type="checkbox"/> decrease. |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 2. Is the application submitted as a result of a Division Order? DO# _____ |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 3. Does the application include operations outside a previously identified Cumulative Hydrologic Impact Area? |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 4. Does the application include operations in hydrologic basins other than as currently approved? |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 5. Does the application result from cancellation, reduction or increase of insurance or reclamation bond? |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 6. Does the application require or include public notice publication? |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 7. Does the application require or include ownership, control, right-of-entry, or compliance information? |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 8. Is proposed activity within 100 feet of a public road or cemetery or 300 feet of an occupied dwelling? |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 9. Is the application submitted as a result of a Violation? NOV # _____ |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 10. Is the application submitted as a result of other laws or regulations or policies?
<i>Explain:</i> _____ |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 11. Does the application affect the surface landowner or change the post mining land use? |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 12. Does the application require or include underground design or mine sequence and timing? (Modification of R2P2) |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 13. Does the application require or include collection and reporting of any baseline information? |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 14. Could the application have any effect on wildlife or vegetation outside the current disturbed area? |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 15. Does the application require or include soil removal, storage or placement? |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 16. Does the application require or include vegetation monitoring, removal or revegetation activities? |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 17. Does the application require or include construction, modification, or removal of surface facilities? |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 18. Does the application require or include water monitoring, sediment or drainage control measures? |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 19. Does the application require or include certified designs, maps or calculation? |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 20. Does the application require or include subsidence control or monitoring? |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 21. Have reclamation costs for bonding been provided? |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 22. Does the application involve a perennial stream, a stream buffer zone or discharges to a stream? |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 23. Does the application affect permits issued by other agencies or permits issued to other entities? |

Please attach four (4) review copies of the application. If the mine is on or adjacent to Forest Service land please submit five (5) copies, thank you. (These numbers include a copy for the Price Field Office)

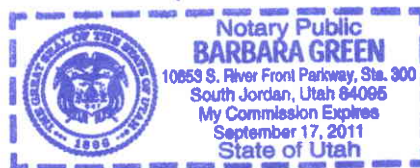
I hereby certify that I am a responsible official of the applicant and that the information contained in this application is true and correct to the best of my information and belief in all respects with the laws of Utah in reference to commitments, undertakings, and obligations, herein.

Harlan M. Hatfield
Print Name

[Signature], Via Pres, 23 May 2011
Sign Name, Position, Date

Subscribed and sworn to before me this 23 day of May, 20 11

Barbara Green
Notary Public
My commission Expires: Sept. 17, 2011 }
Attest: State of Utah } ss:
County of Salt Lake



For Office Use Only:

Assigned Tracking Number:

Received by Oil, Gas & Mining

RECEIVED
MAY 24 2011
DIV. OF OIL, GAS & MINING

APPLICATION FOR COAL PERMIT PROCESSING

Detailed Schedule Of Changes to the Mining And Reclamation Plan

Permittee: COVOL Engineerd Fuels, LC

Mine: Wellington Dry-Coal Cleaning Facility

Permit Number: C/007/0045

Title: Final submittal to Mid-Term Review Comments - Task ID #3805

Provide a detailed listing of all changes to the Mining and Reclamation Plan, which is required as a result of this proposed permit application. Individually list all maps and drawings that are added, replaced, or removed from the plan. Include changes to the table of contents, section of the plan, or other information as needed to specifically locate, identify and revise the existing Mining and Reclamation Plan. Include page, section and drawing number as part of the description.

DESCRIPTION OF MAP, TEXT, OR MATERIAL TO BE CHANGED

[illegible]

Any other specific or special instruction required for insertion of this proposal into the Mining and Reclamation Plan.

Received by Oil, Gas & Mining

RECEIVED

MAY 24 2011

DIV. OF OIL, GAS & MINING

CHAPTER 1

LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

1.10 Minimum Requirements

1.1.1 Introduction

This chapter of the COVOL Dry-Coal Cleaning Facility permit application provides information regarding the ownership and control of the permit area. The compliance status of the operator at other locations is also provided herein. The facility covered by this permit application has been in operation since January 2006.

The COVOL Dry-Coal Cleaning Facility (MSHA ID 42-02398 issued 2/10/2005) is used for coal cleaning and is not a coal mine. As a result, some sections of Utah's coal mine permitting rules do not strictly apply to this site. Given that fact, the applicant and the Utah Division of Oil, Gas and Mining held discussions over a period of several months prior to the submittal of this permit application in order to establish the submittal requirements. Correspondence associated with these discussions is provided in Appendix 1-1.

An environmental compliance assessment was conducted of the COVOL operations in 2006. A copy of the opinion report resulting from that assessment is provided in Appendix 1-2. That report includes copies of environmental permits, plans, policies, and procedures that were in place at the time of the assessment.

This document has been arranged in the format of the R645-301 regulations. For example, Section 1.10 corresponds to R645-301-110, Section 1.1.1 corresponds to R645-301-111, Section 1.1.2.2 corresponds to R645-301-112.200, etc.

1.1.2 Identification of Interests

COVOL Engineered Fuels, LC (hereafter referred to as "COVOL") is a subsidiary of Headwaters Energy Services Corporation, 10653 South River Front Parkway, Suite 300, South Jordan, Utah. Headwaters Energy Services Corporation is a subsidiary of Headwaters Incorporated. The relationship between these three companies is shown in Figure 1-1. COVOL is the owner/operator of the dry coal cleaning facility located in Carbon County, Utah. The facility is located within Section 14, Township 15 South, Range 10 East, SLBM, approximately 2 miles west of Wellington, Utah. No entity owns 10% or more of the stock of Headwaters Incorporated.

1.1.2.1 Business Entity

COVOL is a limited liability company. Headwaters Energy Services Corporation and Headwaters Incorporated are corporations.

1.1.2.2 Applicant and Operator

APPLICANT: COVOL Engineered Fuels, LC
10653 South River Front Parkway, Suite 300
South Jordan, Utah 84095
(801) 984-9400

Payment of abandoned mine land reclamation fees, if any, will be the responsibility of the President and Manager of COVOL Engineered Fuels. Inquiries regarding the payment of this fee should be directed to this individual at the mailing address and phone number indicated above. The person currently occupying this position is indicated in Section 1.1.2.3.

OPERATOR: COVOL Engineered Fuels, LC
1865 West Ridge Road
Wellington, Utah 84654
(435) 613-1631

1.1.2.3 Officers and Directors

The directors and officers of Headwaters Incorporated (FEIN 87-0547337) are:

Board of Directors (all own <5%):

<u>Name</u>	<u>Date position was assumed</u>
Kirk A. Benson	09/06/2000
James A. Hickeroff	09/06/2000
R. Sam Christensen	01/01/2003
William S. Dickenson	01/01/2003
E.J. Jake Garn	01/01/2002
Malyn K. Malquist	01/01/2003
Raymond J. Weller	09/06/2000
Blake O. Fisher, Jr.	11/01/2004

Officers (all own <5%):

<u>Name</u>	<u>Title</u>	<u>Date position was assumed</u>
Kirk A. Benson	Chairman of the Board and Chief Executive Officer	09/06/2000
Donald P. Newman	Chief Financial Officer	12/8/2010
Harlan M. Hatfield	Vice President and Secretary	09/06/2000
Scott L. Jackson	Treasurer	03/01/2010

The director and officers of Headwaters Energy Services Corporation (FEIN 80-0380929) are:

Director (owns <5%): Donald P. Newman (Position assumed 1/10/2011)

Officers (all own <5%):

<u>Name</u>	<u>Title</u>	<u>Date position was assumed</u>
Donald P. Newman	Chief Financial Officer	1/10/2011
William H. Gehrmann	President	04/15/2009
Stephanie Black	Vice President	04/15/2009
Harlan M. Hatfield	Vice President	05/12/2004

COVOL Engineered Fuels, LC
Dry-Coal Cleaning Facility

Permit Application
April 2011

John R. Shaal	Vice President of Operations	01/10/2011
Scott Ballard	Vice President of Finance	04/01/2010
Scott L. Jackson	Treasurer	04/01/2010
Curtis J. Brown	Secretary	08/18/2004
Mike Mildenhall	Assistant Secretary	04/01/2010

The officers (all own <5%) of COVOL (FEIN 90-0221443) are:

<u>Name</u>	<u>Title</u>	<u>Date position was assumed</u>
William H. Gehrman	President	04/17/2009
Donald P. Newman	Corporate Financial Officer and Manager	01/10/2011
John Shaal	Vice President	04/17/2009
Harlan M. Hatfield	Vice President and Manager	06/01/2006
Scott Ballard	Vice President of Finance	04/01/2010
Scott L. Jackson	Treasurer	04/01/2010
Curtis J. Brown	Secretary	08/09/2004
Mike Mildenhall	Assistant Secretary	04/01/2010

The addresses and phone numbers for the officers and directors of Headwaters Incorporated, Headwaters Energy Services Corporation, and COVOL are the same as the applicant.

Written correspondence to Headwaters Incorporated or COVOL regarding the operations should be addressed to:

Gina Rau
Director, Regulatory Compliance
Headwaters Incorporated
10653 South River Front Parkway, Suite 300
South Jordan, Utah 84095
(801) 984-3770

1.1.2.4 Coal Mining and Reclamation Operation Permit Applications

The following list represents all permits issued to COVOL, along with applicable identification numbers of applications or permits:

<u>Permit</u>	<u>Issuing Authority</u>	<u>Status</u>
UPDES Permit (No. UTR000685)	Utah Dept. Environmental Quality, Division of Water Quality	Approved
Approval Order (DAQE# AN2952001-03)	Utah Dept. Environmental Quality, Division of Air Quality	Approved
Certificate of Insurance and Business Authorization	Utah Industrial Development Commission	Approved
Mining and Reclamation Permit (C0070045)	Utah Department of Natural Resources, Division of Oil, Gas and Mining	Approved

The COVOL operations permit number is to be determined by the Utah Division of Oil, Gas, and Mining ("DOGM"), which is the issuing authority for the facility. The permits and operations held by subsidiary companies of Headwaters Energy Services Corporation are indicated in Table 1-1.

Neither Wellington City nor Carbon County required COVOL to file development plans prior to construction of the facility. Neither of these local governmental bodies placed reclamation obligations on COVOL or required that COVOL file a reclamation bond. Wellington City issued a Conditional Use Permit to COVOL to grant a variance for the height of their loadout silo. A copy of the Conditional Use Permit is provided in Appendix 1-4. Headwaters Incorporated provided Wellington City with a letter of assurance that Headwaters would "lend its financial support and cause Covol to manage the coal and residual material located at the facility in accordance with applicable laws." In this letter, Headwaters also indicated that they would "ensure that Covol will remove all coal and residual material location on the property (excluding material used for improvements)." A copy of this letter of assurance is provided in Appendix 1-4.

1.1.2.5 Legal or Equitable Owner of the Surface and Mineral Properties to be Mined

COVOL Engineered Fuels, LC is the legal and equitable owner of the entire 30-acre surface parcel included within the permit area. There will be no mining at this facility. Thus, the mineral properties will not be affected by the operation. A property ownership map of the permit and adjacent areas is presented as Figure 5-2. No area within the lands to be affected by the facility is under a real estate contract.

1.1.2.6 Owners of Record of Property Contiguous to Proposed Permit Area

The following owners of surface lands are contiguous to the permit boundary:

High Country Forest Products
8243 Old Federal Road
Montgomery, Alabama 36117

Price City
185 East Main Street
Price, Utah 84501

State of Utah
203 State Capitol Building
Salt Lake City, Utah 84114

Circle K Ranch
P.O. Box 700
Price, Utah 84501

Denver and Rio Grande Western Railroad
1700 Farnham Street
10th Floor South
Omaha, Nebraska 68102

The locations of these lands relative to the permit area are shown on Figure 5-2A.

1.1.2.7 MSHA Numbers

The MSHA number for the operation is: 42-02398

1.1.2.8 Interest in Contiguous Lands

The applicant neither owns nor controls, directly or indirectly, a legal equitable interest in any lands contiguous to the permit area.

1.1.3 Violation Information

Neither the company nor any major stockholder of the company having any interest, either legal or equitable, in the COVOL facility have had a State or Federal mining permit suspended or revoked or a security deposited in lieu of bond revoked. The following Notices of Non-compliance have been issued within the last 3 years to a permittee other than COVOL but where COVOL Fuels No. 3, LLC is an operator:

Notice of Non-compliance #23-1086

Issuing agency: Kentucky Division of Mine Reclamation and Enforcement

Permit No. 807-7016

Permittee: Chas Coal, LLC

Operator: COVOL Fuels No. 3, LLC

Date of non-compliance: 6/11/2009

Description: Permittee has failed to construct and maintain access roads A-A and C according to approved designs.

Corrective action: A permit revision was obtained to show current culvert design on A-A

Status: New culverts will be installed on access road C in the spring when the weather permits this type of work.

Notice of Non-compliance #23-0033

Issuing agency: Kentucky Division of Mine Reclamation and Enforcement

Permit No. 807-0298

Permittee: Chas Coal, LLC

Operator: COVOL Fuels No. 3, LLC

Date of non-compliance: 7/13/2009

Description: Permittee has failed to reclaim areas in accordance with the approved time frames and failed to revegetate backfill areas.

Corrective action: Reclamation and revegetation is scheduled for spring 2011 when the weather will allow access to the permitted area.

Status: Reclamation scheduled for spring 2011.

Notice of Non-compliance #23-0040

Issuing agency: Kentucky Division of Mine Reclamation and Enforcement

Permit No. 807-0324

Permittee: Chas Coal, LLC

Operator: COVOL Fuels No. 3, LLC

Date of non-compliance: 9/4/2009

Description: Permittee failed to submit annual certification of maintenance on impoundments #286, 288, 291, 292, and 287. Trees must be removed from emergency spillway on these ponds and remove debris blocking the principal spillway on ponds 291 and 288.

Corrective action: Trees and debris will be removed in spring 2011 when the weather will allow access to the permitted area. Once trees and debris are removed, the certification will be completed and submitted.

Status: Work is scheduled for spring 2011.

1.1.4 Right-of-Entry Information

The facility is located on lands that are entirely owned by the operator (see Appendix 1-3). Hence, no other right of entry is required.

1.1.5 Status of Unsuitability Claims

Since there is no mining at this facility, the issue of unsuitability claims is not applicable.

1.1.6 Permit Term

The following information is presented to identify permit term requirements and stipulations. The Applicant began operating the facility in January 2006 using an air-jig method to process coal-bearing materials. Termination of operations will be determined by economic

conditions. The timing of this termination is, therefore, unknown. It is anticipated that the Applicant will operate at the site for a period in excess of 5 years.

The anticipated total acreage to be affected during operations is 30 acres. The permit and adjacent areas have been zoned by Wellington City for "light industrial purposes" (Zone M-1). Permitted uses under this zoning include a variety of industrial and manufacturing operations, as indicated in Appendix 1-4. Since the land occupied by the facility has been zoned for general industrial use and will be used for that purpose following the cessation of COVOL's operations, complete site reclamation will not be required (See chapters 4 and 5).

1.1.7 Insurance and Proof of Publication

Certificates of Insurance issued to COVOL are provided in Appendix 8-1. A copy of the newspaper advertisement is provided in Appendix 1-5 indicating that the application has been determined by DOGM to be administratively complete.

1.1.8 Filing Fee

The permit filing fee was paid upon submittal of the application.

1.20 Permit Application Format and Contents

The permit application contains clear, concise, current information, in the format of the DOGM regulations.

1.30 Reporting of Technical Data

All technical data submitted in the permit application is accompanied by the names of

persons or organizations that collected and analyzed the data. The technical data also contains the dates of collection and analysis of the data, and descriptions of the method used to collect and analyze data, as indicated in subsequent sections of this application. Professionals qualified in the subject, planned or directed the technical analyses. These professionals included the following:

- Richard B. White, P.E. – President/Civil and Environmental Engineer, EarthFax Engineering, Inc. (engineering, hydrology, bonding, alluvial valley floors)
- Ari Menitove – Geological Engineer, EarthFax Engineering, Inc. (geology, soils)
- Chris Jensen – Consultant, Canyon Environmental, LLC (cultural resources, biology)
- Gina Rau – Director, Regulatory Compliance, Headwaters Incorporated (legal, financial, compliance, land use, air quality)

1.40 Maps and Plans

The maps submitted in this permit application correspond to the format required by the regulations. The entire permit area was developed prior to the initial submittal of this permit application on January 15, 2008.

1.50 Completeness

The Applicant believes the information in this application to be complete and correct.

TABLE 1-1
Related-Entity Permits

Entity and State	Permit	Issuing Authority	Status
COVOL Engineered Fuels, LC (Alabama) FEIN 90-0221443	Operator on Mine Permits P3247 (MSHA ID 01-03364 issued 5/24/2007), P3256 (MSHA ID 01-03365 issued 5/24/2007), P3257 (MSHA ID 01-03278 issued 5/1/2006), and P3260 (MSHA ID 01-03362 issued 4/20/2007)	Alabama Surface Mining Commission	Issued
COVOL Fuels No. 2, LLC (Indiana) FEIN 37-1554450	Permittee on Mine Permit P-00004 (MSHA ID 12-02397 issued 3/23/2007)	Indiana Dept of Natural Resources	Issued
COVOL Fuels No. 2, LLC (Indiana) FEIN 37-1554450	NPDES Permit No. ING040176 (MSHA ID 12-02397 issued 3/23/2007)	Indiana Dept of Environmental Management	Issued
COVOL Fuels No. 2, LLC (Indiana) FEIN 37-1554450	SSOA 167-27370-00055 [Air Permit] (MSHA ID 12-02397 issued 3/23/2007)	Indiana Dept of Environmental Management	Issued
COVOL Fuels No. 2, LLC (Kentucky) FEIN 37-1554450	Permittee on Mine Permit 889-8005 (MSHA ID 15-19205 issued 3/21/2008)	Kentucky Division of Mine Permits	Issued
COVOL Fuels No. 2, LLC (Kentucky) FEIN 37-1554450	KPDES Permit No. 0107158 (MSHA ID 15-19205 issued 3/21/2008)	Kentucky Division of Water	Issued
COVOL Fuels No. 2, LLC (Kentucky) FEIN 37-1554450	Air Permits S-07-145 (MSHA ID 15-19205 issued 3/21/2008) and S-08-039 (MSHA ID 15-19071 issued 12/6/2007)	Kentucky Division of Air Quality	Issued
COVOL Fuels No. 2, LLC (Kentucky) FEIN 37-1554450	UIC Permit KYV0047 (MSHA ID 15-19205 issued 3/21/2008)	USEPA Region 4	Issued
COVOL Fuels No. 2, LLC (Kentucky) FEIN 37-1554450	UIC Permit KYV0053 (MSHA ID 15-19205 issued 3/21/2008)	USEPA Region 4	Issued
COVOL Fuels No. 3, LLC (Kentucky) FEIN 37-1554451	Operator on Mine Permits 807-7016, 807-0298, 807-0324 (MSHA ID 15-12682 issued 12/7/2007)	Kentucky Division of Mine Permits	Issued
COVOL Fuels No. 3, LLC (Kentucky) FEIN 37-1554451	Permittee on Mine Permits 807-8062, 807-8063, 807-0386, 807-0389, 807-0390, 807-0391, 807-0392, 807-5228, 807-5229, 807-5230, 807-9004 (MSHA ID 15-12682 issued 12/7/2007)	Kentucky Division of Mine Permits	Issued
COVOL Fuels No. 4, LLC (West Virginia) FEIN 37-1554452	Operator on Mine Permit No. 0402292 (MSHA ID 46-09146 issued 2/18/2008)	WV Dept of Env. Protection	Issued
COVOL Fuels No. 4, LLC (West Virginia) FEIN 37-1554452	Air Permit G10-C104 (MSHA ID 09146 issued 2/18/2008)	WV Department of Environmental Protection	Issued
COVOL Fuels No. 5, LLC (Alabama) FEIN 37-1554453	Operator on Mine Permit P3199 (MSHA ID 01-00563 issued 7/1/2008)	Alabama Surface Mining Commission	Issued

2.3.1.4 Construction, Modification, Use, and Maintenance of Topsoil Stockpiles

The two topsoil storage piles at the facility were constructed in August 2005 and consist of 1,302 cubic yards of soil that was removed from the ground surface during site grading prior to constructing the facility. Since the topsoil averaged less than six inches thick, it was not segregated before it was stockpiled. The stockpiled materials were initially placed on a stable surface in the southeast portion of the permit area but were then moved in October 2010 to the location indicated on Plate 5-1 to accommodate site activities. The west stockpile contains 302 yd³ of topsoil and the southwest stockpile contains 1,000 yd³ of topsoil. The stockpiles were protected from wind and water erosion by being revegetated on November 18, 2010 with the seed mix contained in Table 3-1 (minus *Eriogonum inflatum*, *Oenothera caespitosa*, and *Stipa hymenoides* due to a lack of availability at the time) and by installing silt fencing below the stockpiles to help trap sediment coming off the stockpiles. A marker has been placed on the piles to indicate that they contain topsoil. It is not anticipated that this topsoil will be moved or disturbed again until required for redistribution during final reclamation.

2.3.2 Topsoil and Subsoil Removal

2.3.2.1 Topsoil Removal and Segregation

It is not anticipated that additional soil disturbances will occur at the site. However, if such disturbances do occur, all topsoil thicker than 6 inches will be removed prior to disturbance as a separate layer from the subsoil, segregated, and stockpiled separately. Topsoil less than 6 inches thick will be removed according to Section 2.3.2.3.

2.3.2.2 Poor Topsoil

Topsoil that is of an insufficient quantity or of poor quality (for sustaining vegetation) will be removed as a separate layer and segregated. Such operations will be done with approval of DOGM and in compliance with R614-301-233.100.

2.3.2.3 Thin Topsoil

Topsoil to be removed that is less than 6 inches thick will be removed with the immediately underlying unconsolidated materials. This material mixture will be treated as topsoil.

The DWR has also indicated that burrowing owls may be present in the general vicinity of the COVOL site. A burrowing owl assessment was conducted of the area on September 25, 2008 by Chris Jensen, Project Biologist with Canyon Environmental. Mr. Jensen's qualifications for conducting this assessment are summarized in Appendix 3-2. This assessment was conducted by walking transects across the permit and adjacent areas at a spacing of 10 to 15 feet. In the absence of specific guidelines established by the State of Utah for conducting these assessments, guidelines promulgated by the States of Arizona, California, and Colorado were used for this assessment. Anthony Wright, Regional Sensitive Species Biologist with the DWR, indicated that these methodologies were appropriate for use in Utah (see Appendix 3-1). No burrows indicating the presence of burrowing animals were found within or adjacent to the site. However, prairie dogs and their burrows were observed approximately one-half mile east of the site near Ridge Road and appropriate habitat for prairie dogs and burrowing owls is located south and east of the permit area as noted in Appendix 3-1.

In order to best determine the presence or absence of burrowing owls in the areas adjacent to the coal cleaning facility, COVOL conducted an additional burrowing owl survey in June 2010. A representative from COVOL consulted with DWR and DOGM prior to conducting the survey to verify the appropriate time and protocol to be used to implement the survey. The results of this survey have been placed in the DOGM confidential file.

Given the lack of perennial surface water, there is no fish habitat within the permit area.

3.2.2.1 Level of Detail

The scope and level of detail within this document are sufficient to design the protection and enhancement plan for wildlife and fish in the area.

APPENDIX 8-1

Reclamation Bond Cost Estimate

Direct Costs

Subtotal Demolition and Removal	\$123,333.00
Subtotal Backfilling and Grading	\$16,760.00
Subtotal Revegetation	\$19,266.00
Direct Costs	\$159,359.00

Indirect Costs

Mob/Demob	\$15,936.00	10.0%
Contingency	\$7,968.00	5.0%
Engineering Redesign	\$3,984.00	2.5%
Main Office Expense	\$10,836.00	6.8%
Project Mainagement Fee	\$3,984.00	2.5%
Subtotal Indirect Costs	\$42,708.00	26.8%

Total Cost 2011 Dollars	\$202,067.00
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Number of years	5
Escalation Factor for 2011	1.004
Escalation	\$4,041.00 1.02

Number of years

Escalation Factor

Escalation

Escalated Reclamation Cost to 2015	\$206,108.00
Reclamation Cost Estimate	
Reclamation Cost (rounded to nearest \$ 1,000)	\$206,000.00
Bond Amount Posted 2009	\$165,000.00
Bond Deficiency	\$41,000
% Difference	20%

[illegible]